

REMARKS

The Examiner has rejected Claims 1-13 of the present invention. Claims 1, and 10-12 have been amended. Therefore, claims 1-13 are currently pending.

The Applicants note that all amendments of claims are made without acquiescing to any of the Examiner's arguments or rejections, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG), and without waiving the right to prosecute the amended claims (or similar claims) in the future.

Objection to the Oath/Declaration

The Examiner has objected to the declaration as being defective. Applicants respectfully disagree. However, without acquiescing to the Examiner's arguments, Applicants have submitted a new declaration. As such, Applicants request the Examiner withdraw the objection.

The Claims are Definite

The Examiner has rejected claims 1, 10, and 12 under 35 U.S.C. 112, second paragraph as allegedly being indefinite. Applicants respectfully disagree.

The Examiner alleges that claim 1c lacks sufficient antecedent basis for reciting "said downstream portion." Without acquiescing to the Examiner's argument, Applicants have amended the claim to recite "a downstream portion." As such, Applicants respectfully request the rejection be withdrawn.

The Examiner alleges that claim 1e lacks sufficient antecedent basis for reciting "said chamber." Without acquiescing to the Examiner's argument, Applicants have amended the claim to recite "said oocyte insemination chamber." As such, Applicants respectfully request the rejection be withdrawn.

The Examiner alleges that claim 10 lacks sufficient antecedent basis for reciting "said chamber." Without acquiescing to the Examiner's argument, Applicants have amended the claim to recite "said oocyte insemination chamber." As such, Applicants respectfully request the rejection be withdrawn.

The Examiner alleges that claim 12 lacks sufficient antecedent basis for reciting “the rate of fertilization of oocytes.” Without acquiescing to the Examiner’s argument, Applicants have amended the claim to recite “[the] rate of fertilization of oocytes.” As such, Applicants respectfully request the rejection be withdrawn.

The Examiner alleges that claim 12 lacks sufficient antecedent basis for reciting “said channel.” Without acquiescing to the Examiner’s argument, Applicants have amended the claim to recite “said microfluidic channel.” As such, Applicants respectfully request the rejection be withdrawn.

The Examiner alleges that claim 12 lacks sufficient antecedent basis for reciting “the sperm concentration.” Without acquiescing to the Examiner’s argument, Applicants have amended the claim to recite “said low sperm concentration.” As such, Applicants respectfully request the rejection be withdrawn.

The Claims are Not Obvious

The Examiner has rejected claims 1-2, 5-6, 11-13 under 35 U.S.C. 103(a), as allegedly being obvious over Takayama et al. (US 2003/0165812; hereinafter Takayama et al.)) in view of Gordon (US 5,627,066). Applicants respectfully disagree. M.P.E.P. 2136.05 states that a rejection under 35 U.S.C. 102(e) may be overcome by “submitting an affidavit or declaration under 37 CFR 1.132 establishing that the relevant disclosure is applicant’s own work. *In re Mathews*, 408 F.2d 1393, 161 USPQ 276 (CCPA 1969).” Applicants submit herewith a declaration under 37 C.F.R. §1.132 establishing that the Takayama et al. reference describes the Applicants’ own work, and that the additional authors were not involved in the inventive process of the present invention. In light of the accompanying declaration, the Takayama et al. reference is not a proper prior art reference under 35 U.S.C. 103(a). As such, Applicants respectfully request the rejection be withdrawn.

The Examiner has rejected claims 3-4 and 7-10 under 35 U.S.C. 103(a), as allegedly being obvious over Takayama et al./Gordon in view of Beebe et al. (US 6,193,647). Applicants respectfully disagree. As stated above, Applicants have submitted a declaration under 37 C.F.R. §1.132 establishing that the Takayama et al. reference describes the Applicants’ own work, and that the additional authors were not

involved in the inventive process of the present invention. In light of the accompanying declaration, the Takayama et al. reference is not a proper prior art reference under 35 U.S.C. 103(a). As such, Applicants respectfully request the rejection be withdrawn.

CONCLUSION

If a telephone interview would aid in the prosecution of this application, the Examiner is encouraged to call the undersigned collect at (618) 218-6900.

Dated: July 6, 2009

/Tanya A. Arenson/

Tanya A. Arenson
Reg. No. 47,391

CASIMIR JONES, S.C.
440 Science Drive, Suite 203
Madison, WI 53711
(608) 218-6900